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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

NGUYEN, T

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 09/15/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/845,657

Applicant(s)
JANG

Examiner
Tram Nguyen

Group Art Unit
3738



☒ Responsive to communication(s) filed on Jun 22, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-86 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-86 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Specification

1. In response to applicant's amendment of June 22, 1998, the examiner has withdrawn all prior objections to the specification.

Claim Objections

2. In response to applicant's amendment of June 22, 1998, the examiner has withdrawn all prior objections to the claims.

Double Patenting

3. Claims 1 and 24 of this application conflict with claims 1, 2, 4, 5, and 49 of Application No. 08/824,142. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.
4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1 and 24 are provisionally rejected under the judicially created doctrine of double patenting over claims 1, 2, 4, 5, and 49 of copending Application No. 08/824,142. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

This application claims a first expansion column comprising a plurality of expansion strut pairs, a second expansion column comprising a plurality of second column expansion strut pairs, a first connecting strut column comprising struts which connect the first column expansion strut pairs to the second column expansion strut pairs, and a second connecting strut column comprising connecting struts which connect the second column expansion strut pairs to a third

expansion column, wherein the expansion strut pairs of the first expansion column are longitudinally offset from the expansion strut pairs of the second expansion column.

Application No. 08/824,142 claims a first expansion column comprising a plurality of expansion strut pairs, each first expansion strut pair defining a first column loop slot, a second expansion column comprising a plurality of second column expansion strut pairs, each second expansion strut pair defining a second column loop slot, a first connecting strut column comprising struts which connect the first column expansion strut pairs to the second column expansion strut pairs, and a second connecting strut column comprising connecting struts which connect the second column expansion strut pairs to a third expansion column, wherein the first column loop slots are non-parallel or non-collinear to the second column loop slots. The application also claims that the first expansion strut in the first expansion column is circumferentially offset from a corresponding second expansion strut of the second expansion column.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Response to Arguments

6. Applicant's arguments with respect to claims 1-86 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tram Nguyen whose telephone number is (703) 308-0804. The examiner can normally be reached on Monday - Friday from 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached at (703) 308-2672. The fax phone number for this group is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceedings should be directed to the group receptionist whose telephone number is (703) 308-0858.


TAN
September 13, 1998


MICHAEL J. MILANO
PRIMARY EXAMINER
ART UNIT 3738